

Meeting #4 Minutes - Task Force on Public Works

Met at Gallatin Gateway Inn, March 12 & 13, 1998, Bozeman, Montana

MARCH 12, 1998

A&E DIVISION CONTRACT (Presented By Russ Katherman)

1. Basic Service - does civil get included here? It was agreed that the contract will include civil engineering.
2. Better define scope of project so consultant can better estimate fees (Steve). It was agreed that public agencies will attempt improvement of project programs prior to engaging an Architect/Engineer.
3. Additional Services - Warranty should be added as basic service. Lump everything in basic service, but allow for things to be added as additional service (i.e. develop a listing of items in the basic area.
4. Prices of contract related to services should be specific (Steve)
5. Record Drawings – Need “disks” in addition to set of record mylars.
6. Entire project budget must communicated and responsibility maintaining it should be that of consultant.
7. Wage rates included in contracts - is it worth legislation to change and include by reference? A&E will investigate.
8. I.2. Questions on A201, should State adopt something else. Consistency should be on issue for us. Doing our own could be counter productive.
9. Warranty - at Final acceptance instead of substantial completion. What is the instrument to define “final acceptance”? A&E will investigate method of implementation.
10. PL Insurance - base coverage according to risk, question of how to be fair to firms applying for some project when one has it and other doesn't (Ralph). Real question is do we want it or not? Is it required? (Maybe everything else is secondary). A&E determines level of coverage based upon project risk.
11. Ownership of documents (transfer of ownership). State wants to own documents. A/E firms concerned about liability of both hardcopy and electronic format of documents.

UM CONTRACT (Presented By Kevin Krebsbach/Alan Mulkey)

1. Only for bond projects (Kevin)
2. Why not an amendment to A&E's contract rather than an entirely new version?
3. Contract written for lowest common denominator of firms available. Can it be different for “more competent” firms?
4. Many provisions of contract (at least initially) were not insurable.
5. Separate issue arose concerning CA services: Agencies are not getting contract administration services out of Architect (MSU, UM and DMA raised issue). A/E firm will take concern back to profession and discuss it.
6. Question arose concerning UM contract - Are we trying to put too much into a document? The real success of project falls back to management (DMA).
7. Agencies like firms with contract administration specialists.
8. Construction Administration vs Construction Management. Question of service and fee for it? Fees should be reviewed with expectations of what services are expected to be provided.

AFTERNOON SESSION

1. FW&P - Items discussed in morning session: Schedule, ownership of documents, selection process, identifying what is being done up front were all agreed to by FW&P. Use supplements to A&E's current contract, don't use separate contracts. Don't restrict what consultant says he needs to do to accomplish the work. Expressed concern that team who interviewed doesn't show up on the job. Key personnel clause a possibility for contract. FW&P has small projects spread all over, wants best consultant, keep team together, they go thru some planning, especially site planning.
2. MSU - Design build can really lose control with consultant/owner relationship. Contractor has complete control in MSU case. It is a big concern if A&E decides to pursue this form of project delivery. Design fees in such that MSU likes to pay top fee and expect top product. Value engineering - is it just budget reduction? Don't let project go to VE if it is out of budget to start with.
3. GSD - Problem with agencies knowing what they want or need, recommissioning is being done on campus, would like more retainage on larger projects. Would like documents on-line (i.e. electronic format). GSD uses contract and does addendums. Project administration is problem with out of town firms often.

PRIVATE PRACTICE SESSION

1. Jim Weatherly - no problems with contracts, some are unique (FW&P), concerned about retainage as consultant when project goes for number of years and they are sub-consultant.
2. Toby - likes the idea of "indefinite delivery, indefinite quantity", "term contract" for multiple projects, would like State to have one contract, feels- they lose control during contract administration and that State doesn't realize cost for firms to do business. Owner must define project as much as possible. Communication is a key and would like more sessions like this.
3. Terry - likes id/iq contracts, contract administration is a problem, how important is availability during contract (MSU-B only 5 blocks away vs. MSU-Bozeman or UM), agencies need to define what is wanted.
4. Steve - wants further discussion of what is expected of firms for contract administration versus what firms are delivering. Possibility of state doing term contracts? Thinks firms get less fee per project now days than they did in the past considering all that is required today. Could be discussion item in future. Ralph suggested sending out survey first for feedback.
5. Jim B. - defining scope of work is imperative. Would like single contract that could be amended. Worried about concept that Architects have abdicated their responsibilities during contract administration. Maybe fee structure needs to be examined, such as 25% for contract administration. If they don't provide service, someone will step into market to do it.

AFTERNOON SUMMARY (Other Topics)

1. Fees and expenses, site visits for contract administration expectations, topics for future meetings.
2. Contract rewrite MSU would like to be part of process when we work with UM. A&E will

distribute copies for review.

MARCH 13, 1998

FRIDAY A.M.

1. Russ reviewed legislation (review and accept plans and specs):
 - a. 1% tax, can we do something? Up it to \$25K?
 - b. filing of bonds with county, why? No one knows.
 - c. wage rates, have Dept of Labor & Industry tell us which rates to use?
2. Ralph - would help on regulations that would change low-bid method. What is "responsible bidder?" Pre-qualify is a possibility.
3. Dal - low bid is a problem, qualifying contractors personnel is a possibility.
4. Negotiated bid possibility?
5. Design/build sub group Jim Baker, Steve Cecilia, Eakle, Allan, Ralph, Jim Whaley, that could get together with Montana Contractors Association Jim Kimbel.
6. Delegation Form needs to be changed (negotiation w/BOE removed).
7. Dal - \$25/day penalty of wage rate dispute is problem. Pecuniary interest is a problem for DOA but will be tied to other issues, such as bidding.
8. Chain of command is problem at times on Construction Administration for projects (CMS, A&E, MSU, etc.). Need is to make clear chain of command and try to make it seamless if there are transitions during the course of the project.
9. Steve - Projects seem to be administratively cleaner when delegated (e.g. BA vs Fieldhouse at UM).
10. Alan - concerned about ADA project as is Cecilia (both want delegated). Problem is they contain LRBP State funds and A&E does not delegate those. Agencies may need to place these items in operation/maintenance budget requests if they want to do them.
11. Dal - Could delegation authority, when funding dollar is appropriated to agency, be eliminated with some legislation?
12. Task force should consider meeting with legislators before session to explain what we are doing and trying to accomplish.
13. Ralph would like to see bonding for maintenance projects.
14. Eakle concerned about O&M funding. Appropriation for Special Ed Building, legislature did not give more than 50%. Future is question, is this a trend?
15. Electronic bidding (Cecilia). Are we going to this? A&E responded it is a possibility but is way into

the future.

16. Use of Federal Form 254/255 rather than State 114/115 - Federal form needs to reflect project team.
17. Travel costs - mileage, travel time, etc. and how to negotiate. Ralph thinks profession could wrestle with question and come back to the committee. Lots of discussion since travel in Montana is common but can be costly.
18. Next meeting may be August/September? Interim stuff in coming weeks.
19. SGC to new A201 issue needs to be done soon. Russ will work on identifying current changes and getting a list to subcommittee who will then plan a meeting. Agencies can work out and have profession review.

FINAL TOPICS AND WORK TO BE DONE

1. A&E Division will take lead on issues.
2. Subcommittee formed on bidding process and possible revisions to it (negotiated bid, pre-qualification of contractors, design-build method). Members are Ralph DeCunzo, Eakle Barfield, Cecilia Vaniman, Russ and Jim Whaley. A&E will invite the Contractors Association and Jim Kimble (who will represent A/E firms).
3. Subcommittee formed on rewrite of SGC to new A201. Members are Ralph, Al Mulkey, Jim, Russ. A&E will invite Jim Kimble.
4. A&E will distribute draft Design-Build manual for discussion of possible statutory changes.
5. A&E will distribute copies of UM's Architect/Engineer contract to all at meeting for review and comment.
6. A&E will distribute copies of meeting minutes for review and comment.
7. It was pointed out that statutory changes need to be submitted by May 1st for the Governor's review.